

§ 25.2522(c)-1

26 CFR Ch. I (4-1-01 Edition)

art and the prevention of cruelty to children or animals.

(b) [Reserved]

§ 25.2522(c)-1 Disallowance of charitable, etc., deductions because of “prohibited transactions” in the case of gifts made before January 1, 1970.

(a) Sections 503(e) and 681(b)(5) provide that no deduction which would otherwise be allowable under section 2522 for a gift for religious, charitable, scientific, literary or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, is allowed if—

(1) The gift is made in trust and, for income tax purposes for the taxable year of the trust in which the gift is made, the deduction otherwise allowable to the trust under section 642(c) is limited by section 681(b)(1) by reason of the trust having engaged in a prohibited transaction described in section 681(b)(2); or

(2) The gift is made to any corporation, community chest, fund or foundation which, for its taxable year in which the gift is made is not exempt from income tax under section 501(a) by reason of having engaged in a prohibited transaction described in section 503(c).

(b) For purposes of section 503(e) and section 681(b)(5) the term “gift” includes any gift, contribution, or transfer without adequate consideration.

(c) Regulations relating to the income tax contain the rules for the determination of the taxable year of the trust for which the deduction under section 642(c) is limited by section 681(b), and for the determination of the taxable year of the organization for which an exemption is denied under section 503(a). Generally, such taxable year is a taxable year subsequent to the taxable year during which the trust or organization has been notified by the Internal Revenue Service that it has engaged in a prohibited transaction. However, if the trust or organization during or prior to the taxable year entered into the prohibited transaction for the purpose of diverting its corpus or income from the charitable or other purposes by reason of which it is entitled to a deduction or exemption, and the transaction involves a substan-

tial part of such income or corpus, then the deduction of the trust under section 642(c) for such taxable year is limited by section 681(b), or the exemption of the organization for such taxable year is denied under section 503(a), whether or not the organization has previously received notification by the Internal Revenue Service that it has engaged in a prohibited transaction. In certain cases, the limitation of section 503 or 681 may be removed or the exemption may be reinstated for certain subsequent taxable years under the rules set forth in the income tax regulations under sections 503 and 681.

(d) In cases in which prior notification by the Internal Revenue Service is not required in order to limit the deduction of the trust under section 681(b), or to deny exemption of the organization under section 503, the deduction otherwise allowable under § 25.2522(a)-1 is not disallowed with respect to gifts made during the same taxable year of the trust or organization in which a prohibited transaction occurred, or in a prior taxable year, unless the donor or a member of his family was a party to the prohibited transaction. For purposes of the preceding sentence, the members of the donor's family include only his brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants.

(e) This section applies only to gifts made before January 1, 1970. In the case of gifts made after December 31, 1969, see § 25.2522(c)-2.

[T.D. 6334, 23 FR 8904, Nov. 15, 1958; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7318, 39 FR 25458, July 11, 1974]

§ 25.2522(c)-2 Disallowance of charitable, etc., deductions in the case of gifts made after December 31, 1969.

(a) *Organizations subject to section 507(c) tax.* Section 508(d)(1) provides that, in the case of gifts made after December 31, 1969, a deduction which would otherwise be allowable under section 2522 for a gift to or for the use of an organization upon which the tax provided by section 507(c) has been imposed shall not be allowed if the gift is made by the donor after notification is made under section 507(a) or if the donor is a substantial contributor (as